THE HONOURABLE SRI JUSTICE

A.GOPAL REDDY

W.P.Nos.20583 & 20590 of 1994

Dt.17-02-2006

W.P.No.20583:

Between:

1.P.Abdul Subhan s/o Abdul Razak and another.

…Petitioners

and

1.The State of A.P. rep. by its Secretary to Government,
Food & Agriculture Department, Secretariat, Hyderabad
and others.

..Respondents.

W.P.No.20590 of 1994:

Between:

1. S.P.Ranganayakulu s/o late Venkateswarlu
and others.

..Petitioners.

and

1.The State of A.P. rep.by its Secretary to Government,

Food & Agriculture Department, Secretariat, Hyderabad

and others.

..Respondents

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THE HONOURABLE SRI JUSTICE

A.GOPAL REDDY

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W.P.Nos.20583 & 20590 of 1994

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ORAL ORDER:

These two writ petitions are filed for issuance of Mandamus declaring that G.O.Ms.No.1571 Food & Agriculture (FOR.I) dated 07-11-1972 issued by the 1st respondent and the consequential notice dated 28-10-1994 issued by the 4th respondent, resumption of lands granted in their favour are highly illegal, arbitrary, biased and unconstitutional etc.

Petitioners claiming to be eligible for assignment of Government land made applications to the respondent authorities who after verification and satisfying that the petitioners are eligible for assignment granted DKT pattas in their favour in the year 1967 and since then they are in possession of the property. After such assignment they have made the lands fit for cultivation with their hard labour and by spending huge money and also obtained electricity connections. While so, the 4th respondent issued show cause notice dated 28-10-1994 to the petitioners calling upon them to appear for the enquiry and proclaiming that he will cancel the pattas and resume the lands. Petitioners who submitted their explanations filed the present writ petitions questioning the G.O. and the show cause notice.

In response to Rule Nisi, M.R.O. filed counter on behalf of the 4th respondent admitting about granting of pattas in various extents in favour of petitioners and stated that survey numbers are split up survey numbers from Sy.No.1 of Karakambadi village which is classified as Adavi (UAW) for eventual assignment to the Harijans, Girijans and Backward communities and landless poor persons. All the assignees are ineligible persons and by mistake of fact the above assignments were made in their favour. Therefore, the Joint Collector issued a notice dated 28-10-1994 to all the assignees calling explanations. All the above assigned lands are covered by proposed Balaji Reservoir Project for supply of water to Tirupathi Town, which was made by mistake of fact and liable for cancellation. Accordingly show cause notice was issued.

Heard the learned counsel for the petitioners as well as the learned Government Pleader for Revenue (Assignment).

A reading of G.O. clearly discloses that on the representations made by the Harijans, Girijans and Backward communities stating that an extent of 4000 acres in Sy.No.1 of Karakambadi village fit for cultivation and requested to earmark 1500 acres from the said area for assignment for cultivation and also for construction of houses. Basing upon the representations of M.LAs. of the District, the District Collector recommended to the Government for exclusion of 1000 acres from out of 7390 acres in the said survey number which is reserve forest. The Chief Conservator of Forests reported that this block forms allotment area of Mallimadugu Project carrying red sanders pole crap and bamboos and recommended for rejection. Government after examining the matter at length took a decision only an extent of 500 acres be excluded from the reserved area and handed over to the Collector, Chittoor for assignment to the Harijans, Girijans and Backward communities.

Whether any notification is issued under Section 23 of the A.P. Forest Act notifying any reserved forest or any portion thereof shall cease to be reserved is not known. If the same has not been notified till the Forest (Conservation) Act, 1980, which places restriction on the de-reservation of forests or use of forest land for non-forest purpose, the same has to be considered by the authorities on the explanation made to the show cause notice by the petitioners.

Suffice it to say the Joint Collector is under obligation to consider whether petitioners acquire any right over the lands pursuant to DKT pattas, or the lands still remain to be forest land or de-reserve pursuant to the issuance of G.O.Ms.No.1571 dated 07-11-1972 and notification, if any, is issued.

In view of the same, writ petitions filed against the show cause notice cannot be entertained and they are accordingly dismissed. Petitioners are at liberty to submit their explanation to the 4th respondent who can consider all the above aspects and pass a speaking order after considering their claims.

Writ petitions are accordingly dismissed. No costs.

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A.GOPAL REDDY,J

17-02-2006

Murthy